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10/519,746	12/29/2004	Noboru Maesono	HONJ 106NP	9188

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ART UNIT	PAPER NUMBER
2612	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	**Applicant(s)**
Office Action Summary	10/519,746	MAESONO ET AL.
	Examiner	**Art Unit**	
	Eric M. Blount	2612	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>26 October 2007</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____.

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____ .

DETAILED ACTION

1.   Claims 1-16 are currently pending in the claims. Claim 16 is new.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3.   Claims 1 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Gehlot [US

6,310,542 B1].

With regard to **claim 1**, Gehlot discloses a cognitive system for a vehicle and its

occupants comprising:

- A vehicle controller (Vehicle Data Processing unit (VDP), 3) that receives detection

  signals carrying information about vehicle operation and operating signals from the

  operator (column 3, lines 5-10, column 4, lines 38-47), the vehicle controller generating

  control signals for controlling the vehicle (column 3, lines 43-54);

- A predetermined data storage (7) for storing predetermined data selected from data

  appearing in the vehicle controller (Column 3, lines 12-17). It appears that all collected

  data is stored in the predetermined data storage. Storing all the collected data is

interpreted as a predetermined selection wherein all data should be stored in the data

storage;

- A removable memory (28, 30, 32, and 34); and

- A data collection controller (input/output devices (5) column 3, lines 56-67), that receives

the predetermined data from the predetermined data storage, the data collection controller

including at least one code entry section for entering desired data in code, and a

download section for downloading data entered in code and data in the predetermined

data storage into the removable memory ((column 3, lines 55-65, column 4, line 49 –

column 5, line 19).   One of the input/output devices that read on a data collection

controller is the card reader taught by Gehlot. The card reader receives an encoded

information card (code entry). The encoded information from the information card is

then downloaded to the predetermined data storage. Later, the information from the

predetermined data storage (which now includes encoded information from the

information cards) is output to the information card (removable memory).);

- Wherein the removable memory (information cards 28, 30, 32, and 34) in which data is

downloaded is collected and provided for the analysis of driving information (column 5,

lines 1-33).

With regard to **claim 4**, a plurality of data is entered in code (column 4, lines 1-23).

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

   1.   Determining the scope and contents of the prior art.
   2.   Ascertaining the differences between the prior art and the claims at issue.
   3.   Resolving the level of ordinary skill in the pertinent art.
   4.   Considering objective evidence present in the application indicating obviousness or nonobviousness.

6.   Claims 5, 10, and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gehlot as applied to the claims above.

As for **claims 5, 10**, Gehlot discloses that any type of information may be entered in code (column 4, lines 1-23). It would have been obvious to the skilled artisan to enter the appropriate information based on the intended use of the invention.

As for **claims 12-15**, Gehlot discloses that various detection signals are received by the vehicle controller (column 3, lines 5-12, column 4, lines 38-48). It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to monitor various vehicle and operator parameters as suggested by Gehlot in the cited passages. The signals detected and recorded would depend on the intended use of the invention, more specifically, the entity using the information, such as, a fleet owner, insurance agency, or rental car company.

As for **claim 16**, Gehlot discloses a card reader/writer that examiner interprets as at least one exemplary type of code entry section disclosed by Gehlot. Gehlot does not specifically disclose a manual button for entering desired data in code. However, Gehlot discloses a

keyboard that can be interpreted as a code entry section for entering desired data in code. Further, the fact that the input device is a card reader as well as a card writer would lead the skilled artisan to believe that manual buttons would be present for entering information to be written to the card. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to try at least one known manual entry means, such as a button, with the code entry section taught by Gehlot, in order to yield the predictable results of a code entry section wherein the user can manually manipulate and enter desired data in code.

7.   Claims 2, 3, and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gehlot as applied to claims above, and further in view of Steiner [US 4,939,652].

With regard to **claims 2 and 3**, Gehlot does not disclose a particular method for storing data in the predetermined data storage. In an analogous art, Steiner discloses a method for storing data by a storage-saving-type data recording method (column 1, line 65 – column 2, line 6). Applicants define storage-saving-type data as a data recording method in the predetermined data storage for recording a large amount of data in a small storage (Steiner's compression methods read on this limitation). It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to modify the invention of Gehlot to include the data storage method taught by Steiner because the modification would have resulted in a data storage capable of storing a large amount of data as needed in such an invention. Examiner further contends that any known data storage method that compresses a large amount of information would operate in the invention; the particular type would be chosen based on an engineering preference. One would obviously want to implement the most efficient data storage method.

Applicant's claimed frequency-accumulation-typed data recording method lacks criticality.

Applicants admit on page 13, lines 1-5 of the specification: *"There are various types of storage-saving-type data recording methods other than the frequency-accumulation-type data recording method. For example, the storage capacity can be saved by recording data that is compressed through the use of a compression technique."* This teaching shows that invention would function the same using other data storage techniques.

With regard to **claims 6 and 7**, a plurality of data is entered in code (column 4, lines 1-23).

As for **claims 8 and 9**, Gehlot discloses that any type of information may be entered in code (column 4, lines 1-23). It would have been obvious to the skilled artisan to enter the appropriate information based on the intended use of the invention.

8.   Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gehlot in view of Steiner and in further view of Tano [US 6,438,472].

Regarding **claim 11**, neither Gehlot nor Steiner discloses the claimed frequency-accumulation-type data recording method. In analogous art, Tano et al discloses a frequency-accumulation-type data recording method, in which possible values for a given parameter are divided into ranges, actual values for given parameters are detected at predetermined time intervals, and every time an actual value that lies within one of the ranges is detected, a count value corresponding to the one of the ranges in incremented (column 14, lines 36-63). While, Tano discloses that the measure is a standard deviation, it functions the same as the applicants frequency-accumulation-type data storage. Therefore, having all three references on hand, it

would have been obvious to one of ordinary skill in the art to modify the invention of Gehlot as

modified by Steiner to include the data storage techniques taught by Tano. The modification

would have been obvious based on the preferences of the system controller/designer. Any known

technique for storing a large amount of data would have been effective in the present invention.

Applicant's claimed frequency-accumulation-typed data recording method lacks criticality.

Applicants admit on page 13, lines 1-5 of the specification: *"There are various types of storage-*

saving-type data recording methods other than the frequency-accumulation-type data recording

method. For example, the storage capacity can be saved by recording data that is compressed

through the use of a compression technique. " This teaching shows that invention would function

the same using other data storage techniques.

Response to Arguments

9.   Applicant's arguments filed October 26, 2007 have been fully considered but they are not

persuasive.

Applicants' argument: The idea of selecting data for storage (Claim 1) is not found in

the Gehlot reference.

Examiner's response: Examiner respectfully disagrees with applicants. As stated in the

previous official action, the teachings of Gehlot reasonably meet the claimed limitations

as presented. In further explanation of the rejection, Gehlot discloses a system for

communicating and collecting data from various vehicle systems. The selection of

vehicle systems and data collecting sensors would be predetermined by a system

designer. The data stored by the system is a result of the chosen data collecting sensors.

Since a system designer pre-selects the data collecting sensors, it is also true that data stored in the data storage is also predetermined.

Applicants' argument: Gehlot's card reader 5B has no code entry section.

Examiner's response: As previously stated, Gehlot discloses a card reader that reads information from encoded cards. The card reader is interpreted as one example of a data collection controller. Further, by way of the encoded information being entered via the card reader itself; it also reads upon applicants' claimed code entry section.

Applicants' argument: There is no motivation to combine the inventions of Gehlot, Steiner, and Tano to arrive at applicants' claim 11.

Examiner's response: In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Gehlot and Steiner teach inventions where storage of large amounts of data may be required. Tano discloses a method that can be used for efficiently storing a large amount of data. Having all three references at hand, the skilled artisan would have recognized the advantages of storing the large amounts of data in the Gehlot and Steiner references, using the method of Tano. Thus, the combination would have been obvious to try.

Conclusion

10.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing.

date of this final action.

11.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Eric M. Blount whose telephone number is (571) 272-2973. The

examiner can normally be reached on Monday-Thursday 8:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Daniel Wu can be reached on (571) 272-2964. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eric M. Blount
Examiner
Art Unit 2612

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BENJAMIN C. LEE
PRIMARY EXAMINER